OLR Bill Analysis

HB 6645

AN ACT CONCERNING THE REVISED UNIFORM LAW ON NOTARIAL ACTS.

SUMMARY:

This bill adopts the Revised Uniform Law on Notarial Acts (RULONA). It repeals the Uniform Acknowledgement Act, the Uniform Recognition of Acknowledgments Act, and certain other statutory provisions concerning notaries public (people appointed by the secretary of the state to perform notarial acts).

Under the bill, a notarial act is one that a notarial officer (a notary public or other individual authorized to perform such acts) may perform under state law, including taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

The bill provides for the recognition of notarial acts, under specified procedures, that are performed both within and outside the state. It prescribes requirements for different types of notarial acts as well as the certificates that must be executed along with such acts.

Like current law, the bill requires a notarial officer to have personal knowledge or satisfactory evidence of the identity of someone appearing before him or her for certain notarial acts. The bill relaxes requirements for establishing satisfactory evidence of someone's identity.

The bill requires notaries to use a stamp, and sets requirements for the stamp and stamping device. It makes changes to required qualifications to become a notary, including requiring notaries to be U.S. citizens or legal permanent residents.

The bill expands the grounds for the secretary of the state to deny, suspend, or otherwise limit a notary's appointment. It also requires non-attorney notaries to state in their advertisements that they are not authorized to give legal advice.

Unlike current law, the bill specifies that it applies to notarial acts whether they are performed with respect to a tangible or electronic record. It requires notaries who wish to perform notarial acts with respect to electronic records to notify the secretary of the state regarding the technology the notary will use.

The bill authorizes the secretary of the state to adopt implementing regulations, and provides that any regulations she adopts regarding the performance of notarial acts for electronic records must be technology-neutral.

EFFECTIVE DATE: October 1, 2011, and applicable to notarial acts performed on or after that date.

§ 2 — DEFINITIONS

In addition to other defined terms, the following definitions apply in the bill.

A record is information that is (1) inscribed on a tangible medium or (2) stored in an electronic or other medium and can be retrieved in perceivable form.

The bill defines sign as to present intent to authenticate or adopt a record to (1) execute or adopt a tangible symbol or (2) attach to or logically associate an electronic symbol, sound, or process with the record. A signature is a tangible symbol or electronic signature that is evidence of the record's signing. An electronic signature is an electronic symbol, sound, or process attached to or logically associated with a record that is executed or adopted by someone with the intent to sign the record. Electronic means relating to technology that has electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Under the bill, someone acts in a representative capacity when acting as:

1. an authorized officer, agent, partner, trustee, or other representative for another individual or entity;

2. a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

3. an agent or attorney-in-fact for a principal; or

4. an authorized representative of another in any other capacity.

§ 4 — AUTHORITY TO PERFORM NOTARIAL ACTS; LIMITS FOR ACTS INVOLVING CONFLICT OF INTEREST

The bill permits a notarial officer to perform notarial acts authorized by the bill or other state law. In addition to those acts specified in the bill, existing law authorizes notaries public to take depositions (CGS § 52-148c) and issue subpoenas for depositions (CGS §§ 52-148e, -155).

The bill prohibits a notarial officer from performing a notarial act with respect to a record (1) to which the officer or the officer's spouse is a party or (2) in which either of them has a direct beneficial interest. The bill specifies that such notarial acts are voidable. Existing law, unchanged by the bill, already disqualifies a notary public from performing a notarial act if the notary is a signatory of the document that is to be notarized (CGS § 3-94g).

§§ 5, 7 — REQUIREMENTS FOR CERTAIN NOTARIAL ACTS AND IDENTIFICATION OF INDIVIDUAL

Acknowledgments, Verifications on Oath or Affirmation, and Witnessing or Attesting a Signature

Current law defines an "acknowledgment" as a notarial act in which a notary public certifies that a signatory, whose identity is personally known to the notary public or proven on the basis of satisfactory evidence, has admitted, in the notary's presence, to having voluntarily signed a document for its stated purpose. The bill's definition of acknowledgment does not include all of these elements, but other provisions of the bill incorporate the same general standard for the

notary's personal knowledge or satisfactory evidence of the person appearing before him or her (see below). It defines an acknowledgment as a declaration by someone before a notarial officer (1) that the individual has signed a record for the purpose stated in it and (2) if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record. (Under both the bill and current law, the actual signing of the record can take place before the acknowledgment and need not be done in the notarial officer's presence.)

A verification on oath or affirmation is a declaration made by someone on oath or affirmation, before a notarial officer, that a statement in a record is true.

Under the bill, a notarial officer who takes an acknowledgment of a record or a verification of a statement on oath or affirmation must determine, from personal knowledge or satisfactory evidence of the individual's identity, that the individual appearing before the officer and making the acknowledgment or verification has the claimed identity and that the signature on the record or statement is that of the individual. A notarial officer who witnesses or attests to a signature must determine, from personal knowledge or satisfactory evidence of the individual's identity, that the individual appearing before the officer and signing the record has the claimed identity. These requirements are similar to those in current law.

Personal Knowledge of Identity. Under the bill, a notarial officer has personal knowledge of the identity of someone appearing before him or her if the individual is personally known to the officer through dealings that are sufficient to make the officer reasonably certain that the individual has the claimed identity. Current law defines personal knowledge of identity as familiarity with someone resulting from interaction with that individual over a period of time that is sufficient to eliminate any reasonable doubt that the individual has the claimed identity.

Satisfactory Evidence of Identity. The bill, like current law, provides that a notarial officer has satisfactory evidence of the identity of someone appearing before him or her if the officer can identify the individual through certain documents or an oath or affirmation of a credible third party. For such evidence to be derived from documents, the bill permits a:

1. passport,

2. driver's license or government-issued nondriver identification card, or

3. other form of government identification issued to an individual that contains the person's signature or photograph and that the officer finds satisfactory.

By contrast, current law requires at least two documents as the source of satisfactory evidence of someone's identity (one issued by a federal or state government that contains the individual's signature and either a photograph or physical description, and another issued by an institution, business, state government, or the federal government that contains at least the individual's signature).

Under current law, documents must be current to provide satisfactory evidence of someone's identity. The bill instead allows documents that are current or expired not more than three years before the notarial act is performed.

The bill also allows satisfactory evidence of someone's identity to be established by a verification, on oath or affirmation, of a credible witness who appears in person before the notarial officer and who the officer (1) knows or (2) can identify based on a passport, driver's license, or government issued nondriver identification card which is current or expired not more than three years before the notarial act is performed. Current law provides that the oath or affirmation must be by a credible person whom the notary public knows, and who knows the individual.

The bill also allows a notarial officer to require someone to provide additional information or identification credentials needed to assure the officer of the person's identity.

Certifying or Attesting a Copy

The bill requires a notarial officer who certifies or attests a copy of a record or an item that was copied to determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

Protesting a Negotiable Instrument

Under the bill, a notarial officer who makes or notes a protest of a negotiable instrument (e.g., a check) must make the findings set forth in existing law for such protests. That is, the protest must identify the instrument and certify either that presentment has been made or, if not, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. A protest may be made upon information that is satisfactory to the notary or other person making it. The protest may also certify that notice of dishonor has been given to some or all parties (CGS § 42a-3-505(b)).

§ 6 — REQUIREMENT FOR PERSONAL APPEARANCE

The bill specifies that if a notarial act relates to a statement made in a record or a signature executed on a record, the individual making the statement or executing the signature must appear in person before the notarial officer.

§ 8 — REFUSAL TO PERFORM NOTARIAL ACT

The bill allows a notarial officer to refuse to perform a notarial act if the officer is not satisfied that (1) the individual executing the record is competent or has the capacity to execute it or (2) the individual made the signature knowingly and voluntarily.

The bill allows a notarial officer to refuse to perform a notarial act unless other law prohibits that refusal. Existing law, unchanged by the bill, provides that a notary public must not unreasonably refuse to perform notarial acts in lawful transactions for any requesting person who pays the fee required by law (CGS § 3-94f).

§ 9 — SIGNATURE IF INDIVIDUAL IS UNABLE TO SIGN

The bill allows someone who is physically unable to sign a record to direct someone else (other than the notarial officer) to sign the person's name on the record. If this occurs, the notarial officer must insert on the record the phrase "signature affixed by (name of other individual) at the direction of (name of individual)" or similar words.

§ 10 — NOTARIAL ACTS PERFORMED IN STATE

The bill permits notarial acts in Connecticut to be performed by the same people authorized by current law to take acknowledgements (notaries public; judges, court clerks, and deputy clerks; family support magistrates; licensed attorneys; town clerks; or justices of the peace), in addition to anyone authorized by state law to perform the specific act. The bill removes the requirement that a court clerk or deputy clerk have a seal if taking an acknowledgment.

Under the bill, the signature and title of someone performing a notarial act in Connecticut are prima facie evidence that the signature is genuine and that the individual holds the designated title. For notaries public, judges, court clerks, deputy clerks, family support magistrates, and attorneys, their signature and title conclusively establish their authority to perform notarial acts.

§§ 11-13 — NOTARIAL ACTS PERFORMED OUT OF STATE, UNDER FEDERAL LAW, OR UNDER TRIBAL JURISDICTION

Under the bill, notarial acts legally performed in other states (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or other territories or insular possessions that are subject to United States jurisdiction), under federal law, or on federally recognized Indian reservations are valid in Connecticut.

Under current law, any instruments acknowledged out of state by similar categories of people, excluding judges, and specifically including commissioners of deeds, are recognized in Connecticut.

Current law also allows notarial acts outside of the state or under federal law by similar categories of people as authorized by the bill,

with the following exception. Current law recognizes out-of-state notarial acts by commissioned military officers or others authorized by the military to perform notarial acts, but only if the acts are performed for members of the military, a merchant seaman, someone else accompanying the military, or any of their dependents. The bill repeals a provision regarding acknowledgments by people in the military before certain officers (CGS § 1-38) but does not repeal another similar provision (CGS § 27-137).

The bill specifies that the signature and title of someone performing a notarial act (1) in another state, (2) while acting under the authority and in the jurisdiction of a federally recognized Indian tribe, or (3) while acting under federal authority, are prima facie evidence that the signature is genuine and that the individual holds the designated title. The signature and title of the following people conclusively establish the person's authority to perform the notarial act:

1. a notary public of another state or a federally recognized Indian tribe;

2. a judge, clerk, or deputy clerk of a federal, tribal, or another state's court;

3. someone in the military or who is working for the military and is authorized by federal law to perform notarial acts; and

4. someone designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas.

These provisions are generally similar to those in current law, which prescribes more detailed authentication procedures for acknowledgments taken within the United States (including its territories or insular possessions) but outside of Connecticut.

§ 14 — NOTARIAL ACTS PERFORMED UNDER THE JURISDICTION OF A FOREIGN COUNTRY OR MULTINATIONAL ORGANIZATION

Under the bill, notarial acts have the same effect under Connecticut law as if performed by a notarial officer of this state if performed (1)

under the authority and in the jurisdiction of a foreign government or a constituent unit of such a government or (2) under the authority of a multinational or international governmental organization. By contrast, current law provides specified categories of people who may take acknowledgments outside of the United States.

The bill provides that the authority of a foreign officer to perform notarial acts is conclusively established if the office title and indication of such authority appear in a foreign legal digest or in a list customarily used as a source for such information. The signature and official stamp of the office holder are prima facie evidence that the signature is genuine and the individual holds the designated title. Under the bill, an official stamp is (1) a physical image affixed to or embossed on a tangible record or (2) an electronic image attached to or logically associated with an electronic record. These provisions are generally similar to current law.

The bill also provides that either of the following conclusively establishes that the notarial officer's signature is genuine and that he or she holds the indicated office:

1. an apostille (certification) that is (a) in the form prescribed by the 1961 Hague Convention (see BACKGROUND) and (b) issued by a foreign state party to the convention or

2. a consular authentication that is (a) issued by someone the U.S. Department of State designates as a notarizing officer for performing notarial acts overseas and (b) attached to the record with respect to which the notarial act is performed.

§ 15 — CERTIFICATE OF NOTARIAL ACT

The bill follows current law in requiring a notarial act to be evidenced by a certificate.

For notarial acts that notaries public perform regarding tangible records, the bill requires an official stamp to be affixed to or embossed on the certificate (see discussion of §§ 17 and 18 below). Current law allows, but does not require, a notary public to use a seal or stamp. For

notarial acts regarding tangible records performed by any other notarial officer, or notarial acts regarding electronic records performed by any notarial officer (including notaries), the bill permits, but does not require, an official stamp if the certificate is signed and dated by the notarial officer, identifies the jurisdiction where the notarial act is performed, and contains the notarial officer's office title.

The bill provides that certificates of notarial acts are sufficient if they meet these requirements and:

1. are in a short form as provided in the bill;

2. are in a form otherwise allowed by state law or the law that applies in the jurisdiction where the notarial act was performed; or

3. describe the notarial officer's actions, and the actions suffice to meet the requirements for the notarial act as provided by §§ 5, 6, and 7 of the bill (e.g., requirements for personal appearance and the officer's having personal knowledge or satisfactory evidence of the person's identity for certain types of notarial acts, and specified other matters) or other state law.

These requirements are generally similar to current law.

Under the bill, a notarial officer who executes a certificate of a notarial act certifies that he or she complied with the requirements of, and made the findings specified in, §§ 4, 5 and 6 of the bill (e.g., provisions concerning authority to perform notarial acts, personal appearance, and the officer's having personal knowledge or satisfactory evidence of the person's identity for certain types of notarial acts, and specified other matters).

The bill prohibits a notarial officer from affixing his or her signature to a certificate, or otherwise logically associating the signature with a certificate, until the officer has performed the notarial act.

For notarial acts performed for tangible records, the bill requires the certificate to be part of, or securely attached to, the record. For notarial

acts performed for electronic records, the certificate must be affixed to, or logically associated with, the record. This process must conform to any standards the secretary of the state sets by regulation for attaching, affixing, or logically associating the certificate with the record.

§ 16 — SHORT FORM CERTIFICATES

The bill prescribes short form certificates of notarial acts, in the following categories: (1) an acknowledgment in an individual capacity, (2) an acknowledgment in a representative capacity, (3) a verification on oath or affirmation, (4) witnessing or attesting a signature, and (5) certifying a copy of a record.

Current law already provides for short forms for acknowledgments, although there are separate forms for various entities (e.g., corporations or limited liability companies) rather than a single form for acknowledgment in a representative capacity.

§§ 17, 18 — OFFICIAL STAMP AND STAMPING DEVICE FOR NOTARIES PUBLIC

The bill defines a stamping device as (1) a physical device capable of affixing to or embossing an official stamp on a tangible record or (2) an electronic device or process capable of attaching to or logically associating an official stamp with an electronic record. A notary public's official stamp must include the notary's name, jurisdiction, appointment expiration date, and other information that the secretary of the state requires. The stamp must also be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

The bill makes a notary public responsible for the security of his or her stamping device. It prohibits a notary from allowing someone else to use the device to perform a notarial act.

A notary must disable his or her stamping device when resigning from his or her notary appointment, when the appointment is revoked or expires, or on the stamping device's expiration date, if there is one. This is similar to the requirement in current law regarding notarial seals of notaries who resign or whose appointment otherwise ends.

To disable the device, the notary must destroy, deface, damage, erase, or secure it against use in a manner that makes it unusable.

The bill also requires a notary's personal representative or guardian, or anyone else knowingly in possession of the device, to similarly make the stamping device unusable when the notary dies or is adjudged to be incompetent. By law, a notary's personal representative must destroy the notary's official seal, if any, as soon as possible after the notary's death. The representative must also notify the secretary of the state about the notary's death (CGS § 3-94q).

The bill also requires a notary, or his or her personal representative or guardian, to notify promptly the secretary of the state upon discovering that the notary's stamping device is lost or stolen.

§ 19 — SELECTION AND NOTIFICATION OF A NOTARY'S TECHNOLOGY FOR ELECTRONIC RECORDS

The bill allows a notary public to select one or more tamper-evident technologies for performing notarial acts with respect to electronic records. It prohibits anyone from requiring a notary to use any other technology to perform a notarial act with respect to an electronic record.

Under the bill, before a notary public performs his or her first notarial act with respect to an electronic record, the notary must (1) notify the secretary of the state that he or she will be doing so and (2) identify the technology the notary intends to use. The technology must conform to any standards the secretary of the state establishes by regulation and if the technology does conform, the secretary must approve its use. The bill does not specify whether a notary must notify the secretary of the state if the notary later changes the technology he or she uses for electronic records.

§§ 20, 21, & 31 — COMMISSION, QUALIFICATIONS, AND APPLICATION DENIAL FOR NOTARIES

The bill modifies qualification criteria for someone seeking appointment as a notary public. Unlike current law, the bill requires a notary to be (1) a U.S. citizen or permanent legal resident and (2) able

to read and write English. (The current exam is only administered in English.)

Under current law, to be eligible to be a notary public, an applicant must, at the time of application and appointment, (1) be a state resident or (2) have his or her principal place of business in Connecticut. The bill allows a non-resident who has a place of employment or practice in Connecticut to become a notary, even if it is not the person's principal place of business.

The bill requires that the applicant be an adult and that initial applicants and notaries public whose commissions have expired pass an exam. The secretary of the state must regularly offer applicants a course of study covering the laws, regulations, procedures, and ethics that are relevant to notarial acts. The bill specifies that the exam must be based on this course of study.

Current law requires applicants to pay a nonrefundable $120 application fee. The bill retains the requirement that the applicant pay any required fee, but does not set a fee amount.

The bill, like current law, requires the applicant to complete the application as required by the secretary of the state. But the bill deletes the current requirements that the applicant (1) complete the application in his or her own handwriting without misstatement or omission of fact and (2) include with the application a recommendation of a non-relative who has personally known the applicant for at least a year.

Under the bill, an applicant must execute an oath of office and submit it to the secretary of the state before the person may be appointed as a notary public. The bill retains the existing requirement that the secretary issue a certificate of appointment to someone after approving the person's application for appointment as a notary public. By law, a notary must record his or her certificate of appointment and oath of office with the town clerk of the municipality (1) where the notary resides or (2) where the notary's principal place of business is located (non-residents must choose the latter) (CGS § 3-94c).

The bill specifies that notaries public are not covered by state laws that confer immunity or benefits on public officials or employees.

It also specifies that a notary's term is five years. Existing law already provides for five-year appointments (CGS § 3-94c). The bill also repeals a provision concerning applications for reappointment.

§ 22 — GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION A NOTARY PUBLIC COMMISSION

The bill allows the secretary of the state to deny, refuse to renew, revoke, suspend, or impose a condition on an appointment as notary public for any act or omission that demonstrates a lack of honesty, integrity, competence, or reliability to act as a notary public. These acts or omissions include:

1. failure to comply with any provision of the bill;
2. a fraudulent, dishonest, or deceitful misstatement or omission in a notary public application;
3. a conviction of any felony or a crime involving fraud, dishonesty, or deceit;
4. a finding in any legal proceeding or disciplinary action that the individual acted fraudulently, dishonestly, or deceitfully;
5. failure to discharge a notarial duty;
6. a notary's representation that he or she has a duty, right, or privilege that he or she lacks;
7. violation of a regulation of the secretary of the state regarding notaries; or
8. another state's denial, refusal to renew, revocation, suspension, or conditioning of a notary public appointment or commission.

The bill also retains current grounds for the secretary of the state to deny an application. These include (1) a conviction for a felony or a crime involving dishonesty or moral turpitude; (2) the revocation,

suspension, or restriction of a notary public appointment or professional license issued by any state; or (3) official misconduct (including performing an illegal act, failing to perform a legally required act, or performing a notarial act in a manner found to be negligent, illegal, or against the public interest) even if it did not lead to disciplinary action (CGS § 3-94b).

Under current law, the secretary of the state may reprimand a notary, or revoke or suspend a notary's appointment, due to (1) the notary's official misconduct, (2) any ground for which an application for a notary appointment may be denied, or (3) a violation of any law.

Under the bill, the secretary of the state must provide notice and the opportunity for a hearing before denying, refusing to renew, revoking, suspending, or imposing conditions on someone's appointment as a notary public. Such actions by the secretary do not bar any other civil or criminal action against a notary.

The bill repeals the current requirement that the secretary of the state notify all town clerks in the state within 30 days of the resignation, revocation, or suspension of a notary's certificate of appointment. It also repeals a provision specifying that the termination or lapse of a notary's appointment does not prevent the secretary of the state from investigating the notary's conduct (CGS § 3-94m).

§ 23 — ELECTRONIC DATABASE OF NOTARIES

The bill requires the secretary of the state to maintain an electronic database of notaries public for people to verify a notary's authority to perform notarial acts. The database must also indicate whether a notary has notified the secretary that he or she will be performing notarial acts on electronic records.

§ 24 — PROHIBITED ACTS FOR NOTARIES

Under the bill, appointment as a notary public does not authorize someone to:

1. assist people or entities in the drafting of legal records, give legal advice, or otherwise practice law;

2. act as an immigration consultant or an expert on immigration matters;

3. represent an individual or entity in a judicial or administrative proceeding relating to immigration to the United States, U.S. citizenship, or related matters; or

4. receive payment for performing such activities.

The bill prohibits a notary public from engaging in false or deceptive advertising. It also prohibits a notary public, other than attorneys licensed in the state, from (1) using the term "notario" or "notario publico" (see BACKGROUND) or (2) advertising or representing that the notary public may assist anyone in drafting legal records, give legal advice, or otherwise practice law.

The bill requires notaries, other than Connecticut attorneys, to include in any advertisement or representation the following disclaimer, or an alternate statement that the secretary of the state authorizes or requires: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." The statement must be prominent and displayed in each language used in the advertisement or representation. If notaries cannot include this statement, it must be displayed prominently or provided at the place of the notarial act's performance before it is performed.

The bill prohibits a notary public from withholding access to or possession of an original record provided by someone asking the notary to perform a notarial act, except as otherwise allowed by law.

The bill repeals a provision that prohibits notaries from (1) performing any official action with intent to deceive or defraud or (2) using the notary's title or seal in an endorsement or promotional statement for any product, service, contest, or other offering (CGS § 3-94h).

§ 25 — VALIDITY OF NOTARIAL ACTS

The bill provides that a notarial officer's failure to perform a duty or meet a requirement specified in the bill does not invalidate a notarial act performed by the officer, except as specified above regarding records in which the officer or his or her spouse is a party or has a direct beneficial interest. The bill also specifies that the validity of a notarial act under it does not prevent an aggrieved person from seeking (1) to invalidate the record or transaction that is the subject of the notarial act or (2) other remedies based on other state or federal law.

§ 26 — REGULATIONS

The bill authorizes the secretary of the state to adopt implementing regulations. The regulations may:

1. prescribe the manner of performing notarial acts regarding tangible and electronic records;

2. include provisions to ensure that any change to a record bearing a notarial act certificate, or any tampering with such a record, is self-evident;

3. include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

4. prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary appointment and assuring the trustworthiness of someone holding such an appointment;

5. include provisions to prevent fraud or mistake in the performance of notarial acts; and

6. provide for the administration of the required notary public application exam and course of study.

The bill requires the secretary of the state to consider the following factors, consistent with the bill, when adopting, amending, or repealing regulations about notarial acts with respect to electronic

records:

1. the most recent standards regarding electronic records that national bodies (such as the National Association of Secretaries of State) have promulgated;

2. standards, practices, and customs of other jurisdictions that substantially enact RULONA; and

3. the views of governmental officials, government entities, and other interested people and entities.

The bill prohibits regulations regarding the performance of notarial acts with respect to electronic records from requiring, or giving greater legal status or effect to, the implementation or application of a specific technology or technical specification.

§ 27 — NOTARY PUBLIC COMMISSION IN EFFECT

The bill specifies that:

1. an appointment as a notary public that is in effect on October 1, 2011, continues until its expiration date;

2. a notary public who applies to renew his or her notary appointment on or after October 1, 2011, is subject to the bill, and must comply with it; and

3. a notary public must comply with the bill in performing notarial acts after October 1, 2011.

§ 29 — UNIFORMITY OF APPLICATION AND CONSTRUCTION

The bill specifies that in applying and construing its provisions, consideration must be given to the need to promote uniformity of law in the bill's subject matter among states that enact the RULONA. The Uniform Acknowledgement Act and the Uniform Recognition of Acknowledgments Act, which the bill repeal, contain similar provisions on uniformity.

§ 30 — E-SIGN ACT

The bill provides that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act, 15 U.S.C. § 7001 et seq. (see BACKGROUND), except for the provisions of that act concerning consumer disclosures. The bill also specifies that it does not authorize electronic delivery of specified notices that are not subject to E-SIGN, including:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;

2. utility cancellation or termination notices;

3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;

4. notices that life insurance, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;

5. notices of the recall or material failure of products that could endanger health or safety; and

6. documents required in transporting or handling hazardous material, pesticides, or other toxic or dangerous material.

BACKGROUND

Notario Publico

In many Spanish-speaking countries, a "notario publico" is authorized to perform certain services that in the United States are reserved to lawyers (Connecticut Secretary of the State, Notary Public Manual, pg. 13).

1961 Apostille Convention

The Hague Convention of October 5, 1961 Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention) was intended to facilitate the use of public documents that were executed in one state and later used in another. The United

States is one of over 90 nations that are members of the treaty.

E-SIGN

The federal Electronic Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. § 7001 et seq.) validates the use of electronic records and signatures. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to 1-286), which also validates the use of such records and signatures. The two overlap significantly, although they are not identical. For example, E-SIGN applies only to interstate transactions, not intrastate transactions. CUETA provides that it supersedes, modifies, and limits the federal law except for E-SIGN's consumer disclosure provisions (CGS §§ 1-286).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 45 Nay 0 (04/15/2011)